

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

STEPHEN McCOLLUM and SANDRA	§	
McCOLLUM, individually, and	§	
STEPHANIE KINGREY, individually and	§	
as independent administrator of the	§	
ESTATE OF LARRY GENE	§	
McCOLLUM,	§	CIVIL ACTION NO. 4:14-cv-03253
Plaintiffs,	§	
	§	
v.	§	
	§	
BRAD LIVINGSTON, et al.,	§	
Defendants.	§	

DR. CHARLES ADAMS' OBJECTIONS AND RESPONSES TO PLAINTIFFS'
SUBPOENA DUCES TECUM ATTACHED AS EXHIBIT A TO THEIR APRIL 11, 2016
NOTICE TO TAKE DR. CHARLES ADAMS' DEPOSITION

Dr. Charles Adams ("Adams") responds to Plaintiffs' Subpoena Duces Tecum attached as Exhibit A to the April 11, 2016 Notice to Take Dr. Charles Adams' Deposition ("Subpoena") as follows:

General Objection: Dr. Adams objects to the definition of "you" contained in the Subpoena. The definition is overly broad and unduly burdensome to the extent it attempts to require him to produce documents of any staff, individuals, and/or entities working at his direction during the time he has been employed by UTMB.

Defendant further objects to Plaintiffs' notice of oral deposition wherein the reference is made in paragraph 1 on page 1 of the notice, "Defendants' expert witness Dr. Charles Adams." Dr. Charles Adams is not an expert witness in this case and will not offer expert opinions in this matter.

1. All documents you have reviewed in preparation for your deposition.

RESPONSE: Dr. Adams objects to the extent this request is overbroad and unduly burdensome in seeking to discover all documents that Dr. Adams may have reviewed in the course and scope of his job duties that may relate to topics addressed during his deposition. Dr. Adams further asserts the attorney-client privilege and work product protection to the extent this request seeks the identity of documents or communications that may have been reviewed with counsel in preparation for this deposition.

Subject to and without waiving the foregoing objections, any documents reviewed by Dr. Adams have either been previously produced, or are attached to this Subpoena and produced herein. Specifically, Dr. Adams has reviewed the following depositions: (1) Deposition of Dr. Glenda Adams dated November 19, 2013; Deposition of Dr. Glenda Adams dated March 7, 2014; (3) Deposition of Dr. Owen Murray dated November 20, 2013; and (4) Deposition of Lannette Linthicum dated November 19, 2014.

2. All documents or other materials you have reviewed, consulted, or relied upon in forming your opinions or conducting your work in connection with this case.

RESPONSE: Dr. Adams and UTMB object to the extent this request implies Dr. Adams is an expert and will offer expert opinions in this matter, or that he has conducted independent work in connection with this case. Dr. Adams is not a retained or consulting expert in this case. Dr. Adams is offered as a fact witness only.

Subject to and without waiving the foregoing objections, *see* Response to Request No. 1 as relates to documents reviewed by Dr. Adams.

3. All documents evidencing any agreement between you and TDCJ or their attorneys or representatives.

RESPONSE: Dr. Adams objects to the extent this request is vague and ambiguous due to the undefined terms, “agreements” and “representatives.”

Subject to and without waiving the foregoing objections, none.

4. All documents or other materials provided to you by counsel for Defendants in connection with this case.

RESPONSE: Dr. Adams asserts the attorney-client privilege and work product protection to the extent this request seeks the identity of documents or communications exchanged with counsel as may relate to the heat litigation cases.

Subject to and without waiving the foregoing, *see* Response to Request No. 1 as relates to documents reviewed by Dr. Adams. Additionally, Dr. Adams was provided with a copy of Plaintiff's Notice to Take Dr. Charles Adams' Deposition and Exhibit A attached thereto.

5. All notes you have prepared or documents you have created in connection with this case.

RESPONSE: Dr. Adams asserts the attorney-client privilege and work product protection to the extent this request seeks any notes he may have created in meeting with counsel and/or in preparation for this deposition.

Subject to and without waiving the foregoing, none.

6. Any documents you reviewed regarding decisions not to air condition any Texas Department of Criminal Justice prison facility.

RESPONSE: None.

7. Your most recent curriculum vitae.

RESPONSE: Dr. Adams' current CV is attached.

8. Any correspondence, reports, deposition transcripts, or demonstrative exhibits pertaining to any Texas inmate that suffered heat exhaustion, heat stroke, or other heat-related illness, including Eugene Blackmon, for which you were an expert witness on behalf of either TDCJ or UTMB.

RESPONSE: Dr. Adams asserts the attorney-client privilege and work product protection to the extent this request seeks any correspondence with counsel or any notes or drafts he may have created in meeting with counsel and/or in preparation for his expert report and trial testimony. Subject to and without waiving the foregoing objections, Dr. Adams Affidavit/Expert report and trial testimony transcript for February 14, 2011 and February 15, 2011 is attached.

Respectfully submitted,

KEN PAXTON

Attorney General of Texas

JEFFREY C. MATEER

First Assistant Attorney General

JAMES E. DAVIS

Deputy Attorney General for Civil
Litigation

KAREN D. MATLOCK

Assistant Attorney General
Chief, Law Enforcement Defense Division

/s/J. Lee Haney

J. LEE HANEY

Attorney-in-Charge
Assistant Attorney General
Texas Bar No. 00784203
Federal I.D. No. 18544

SHANNA ELIZABETH MOLINARE

Assistant Attorney General
Texas Bar No. 24041506
Federal I.D. No. 38632

JENNIFER DANIEL

Assistant Attorney General
Texas Bar No. 24090063
Federal I.D. No. 2451063

HEATHER RHEA

Assistant Attorney General
Texas Bar No. 24085420
Federal I.D. No. 2399979

P.O. Box 12548, Capitol Station
Austin, Texas 78711
(512) 463-2080
(512) 936-2109 (Fax)

FERNELIUS ALVAREZ SIMON PLLC

STEPHEN M. FERNELIUS

State Bar No. 06934340

Federal ID No. 14121

GRAIG J. ALVAREZ

State Bar No. 24001647

Federal I.D. No. 22596

KARA STAUFFER PHILBIN

State Bar No. 24056373

Federal I.D. No. 685342

1221 McKinney Street, Suite 3200

Houston, Texas 77010

(713) 654-1200

(713) 654-4039 (Fax)

**ATTORNEYS FOR DEFENDANT
UNIVERSITY OF TEXAS MEDICAL
BRANCH**

NOTICE OF ELECTRONIC FILING

I, J. Lee Haney, Assistant Attorney General of Texas, do hereby certify that I have electronically submitted for filing, a correct copy of the foregoing in accordance with the Electronic Case Files System of the Southern District of Texas, on May 17, 2016.

/s/J. Lee Haney
J. LEE HANEY
Assistant Attorney General

CERTIFICATE OF SERVICE

I, J. Lee Haney, Assistant Attorney General of Texas, do hereby certify that a true and correct copy of the above and foregoing has been served on all counsel of record via electronic mail on May 17, 2016, as authorized by Fed. R. Civ. P. 5(b)(2) and in accordance with the electronic case filing procedures of the United States District Court for the Southern District of Texas.

/s/J. Lee Haney
J. LEE HANEY
Assistant Attorney General